

## WASHINGTON STATE GAMBLING COMMISSION

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### COMMISSION MEETING TUESDAY, JANUARY 18, 2000 MINUTES

**Chair Ludwig** called the meeting to order at 1:30 p.m. at the Double Tree Hotel at the Sea-Tac Airport. He introduced the following staff as present:

**MEMBERS PRESENT:** CURTIS LUDWIG, Chairperson;  
COMMISSIONER LIZ McLaughlin,  
COMMISSIONER MARSHALL FORREST, and

**OTHERS PRESENT:** BEN BISHOP, Executive Director;  
CALLY CASS-HEALY, Assistant Director, Field Operations;  
DERRY FRIES, Assistant Director, Licensing Operations;  
AMY PATJENS, Manager, Communications and Legal Department;  
MONTY HARMON, Program Manager;  
GREG THOMAS, Northwest Program Manager;  
JONATHAN MCCOY, Assistant Attorney General; and  
SHIRLEY CORBETT, Executive Assistant

**Chair Ludwig** announced that he wished to conclude, to the extent possible, the review the Commission heard earlier for Ruby's Casino under the name, or owned by Aztec Development, Incorporated. He noted the Commission heard the review over two different meeting times, one in Yakima and then again this morning. The Commissioners met before their lunch today and a unanimous decision was reached wherein they accepted, approved and incorporated the findings of the Administrative Law Judge so far as the Findings of Fact were concerned. However, they have concluded that they would overrule a decision to revoke the license or contract of Ruby's Casino under the house banked pilot program. The Commission has determined that Ruby's Casino will be allowed to continue in operation, subject to payment of the investigative, appeal and review costs, which will be determined. In addition, the Commission thought in regard to a potential Phase II application, it would be appropriate that the six-month period under Phase I status would commence this date. Chair Ludwig affirmed they could not apply for Phase II status until six months from now. A formal order will be entered and Chair Ludwig expected that before the Commission signs the order, they would advise Attorney Quinlan what those costs were, another hearing would not be requested. Chair Ludwig noted that if there is anything that should be brought to the Commission's attention before it is entered, the Commission would like all issues resolved.

**Commissioner Forrest** concurred with the summary and noted the Commission would rely on counsel to flesh out all of the details. **Commissioner McLaughlin** concurred. **Chair Ludwig** clarified the costs would include

the investigation and proceedings costs. **Commissioner Forrest** said they might transmit a draft of the Order at the same time the costs are determined.

4. **REVIEW OF AGENDA**

**Ms. Amy Patjens**, Manager, Communications and Legal Department, noted there were two things that will not be on the agenda. Item No.9 - the Default Order, and Item No.10 - the Card Room Contract under Appendix for Charlie Macs. Item No. 9 will not move forward at this time, and it is anticipated that Item No. 10 will likely be on the Commission agenda next month.

5. **MINUTES – NOVEMBER 30 & DECEMBER 1, 1999**

**Chairman Ludwig** noted the Commissioners have had the meeting minutes and other material in their possession longer than usual and have had a chance to review them thoroughly. He said that if there were no objections or corrections, the minutes for November 30 and December 1, 1999, meeting would stand approved as presented. There were no objections or corrections.

6. **LICENSE APPROVALS**

**New Licenses, Changes, and Tribal Certifications:**

**Commissioner McLaughlin** made a motion seconded by **Commissioner Forrest** to approve the new licenses, changes, and tribal certifications as listed in pages 1-16 of the agenda packet. *Vote taken; the motion carried with four aye votes.*

7. **GROUP IV - QUALIFICATION REVIEWS:**

**Boys and Girls Clubs of Whatcom County, Blaine:**

**Monty Harmon**, Financial Investigations, reported that Commission staff had conducted a review for the fiscal year ending December 31, 1998. A detailed report of the review was placed in the agenda packet. This organization was formed as a charitable organization and provides programs sponsoring youths sports as well as various other recreational and leadership services through their youth center. The organization met their combined net income requirement for their Class J Bingo license. There are no pending administrative charges against the organization as of this date. They made significant progress towards their stated purpose. Based on the review, staff recommends approval as a charitable organization to conduct gambling activities. No representatives from the organization were present.

**Commissioner Forrest** made a motion seconded by **Commissioner McLaughlin** to approve the Boys and Girls Clubs of Whatcom Counties located in Blaine, as a charitable organization, and that they be authorized to conduct gambling activities in the state of Washington. *Vote taken; the motion carried with three aye votes.*

8. **GROUP V QUALIFICATION REVIEW**

**Northwest Amateur Hockey Association, Mountlake Terrace:**

**Mr. Harmon** reported that Commission staff conducted a review for the fiscal year ending June 30, 1999, and that a detailed report was provided in the agenda packet. It was noted during the review that this organization was formed as an athletic organization which provides hockey programs including Triple A Midget Team, Triple A Senior Men's Team, and Senior League Men's Programs. They met their net income return for their Class J Bingo license. There are no pending administrative actions against the organization as of this date. They made significant progress towards their stated purpose. Based on the review, staff recommends approval as an athletic organization to conduct gambling activities in the state of Washington.

**Commissioner McLaughlin** asked why the Whatcom County Boys and Girls Club reported for the period of 1997-98 and Northwest Hockey's report was for 1998-99. **Chair Ludwig** suggested it may be

that one is reporting on a calendar year basis and the other on a fiscal year basis. **Mr. Harmon** affirmed. No representatives were present.

**Commissioner Forrest** made a motion seconded by **Commissioner McLaughlin** to approve Northwest Amateur Hockey Association as an athletic organization, and that they be authorized to conduct gambling activities in the state of Washington. *Vote taken; the motion carried with three aye votes.*

9. **DEFAULT ORDER – DENIAL OF LICENSE RENEWAL – Cancelled from Agenda)**  
**G & c Evergreen, d/b/a/ VIPs, Bremerton.** Not reviewed as previously noted.
10. **CARD ROOM CONTRACT UNDER APPENDIX C – HOUSE BANKED PILOT PROGRAM** Not reviewed as previously noted.

11. **PHASE II REVIEWS:**

**Rascals Casino, King County (Seattle)**

**Greg Thomas**, Program Manager, Northwest Region, explained that Rascal's Casino is a commercial restaurant / lounge and card room in King County. It is 100 percent owned by Joseph Callelo who has no ownership interest in any other card room. The organization has a management contract with Royal Casino which is a licensed gambling service supplier and card room in Everett. Rascals began operating house banked games in May of 1999, and currently operates 15 house banked card games. Agents conducted a comprehensive review of key operating departments and of gaming and organization records. In addition, King County was contacted and they confirmed the licensee was current with all local gambling taxes. The King County Sheriff's Department was also contacted to determine if there had been any adverse impacts to local law enforcement from the house banked gaming and none were reported. The licensee corrected all violations noted. Based on the review, staff recommends approval of implementation to Level II, Phase II status for Rascal's Casino.

**Chair Ludwig** pointed out that the report listed four violations which were corrected and asked if that was a low number. **Mr. Thomas** affirmed and said they do a good job. Chair Ludwig noted one of the violations was for failure to notify the Commission that an employee was no longer employed. **Director Bishop** explained this was the best method the Gambling Commission staff had in order to keep track of the individually licensed card room employees. Employers tended to be more faithful than the employee in keeping their records up to date.

**Commissioner McLaughlin** made a motion seconded by **Commissioner Forrest** to approve Rascals for implementation of Level II, Phase II status. *Vote taken: the motion carried with three ayes.*

**Goldies Casino, Shoreline:**

**Greg Thomas** noted this organization is a commercial restaurant / lounge and card room owned by Epstein Noriega LLC. No owners have an interest in any other card room in the test program. This casino has a management agreement with Michaels Development LLC, a licensed service supplier, and began operating house banked games in June, 1999. They currently have 15 house-banked card games. Agents conducted a comprehensive review of key operating departments and of gaming and organization records. In addition, the city of Shoreline was contacted and they confirmed the licensee is current with all local gambling taxes. Shoreline Police Department was also contacted to determine if there had been any adverse impacts to local law enforcement from the house banked gaming and none were reported. The licensee corrected all violations noted. Based on the review, staff recommends approval of implementation to Level II, Phase II status.

**Ms. Cynthia Noriega** said she was a member of Epstein/Noriega LLC, that owns Goldies Shoreline Casino. She wanted the Commission members to know that her husband was the original licensee on the pilot program for the enhanced card rooms. She said they were no longer allowed to participate in the day-to-day operations of Goldies Shoreline Casino, and in fact they are barred from the property. She indicated her desire this be noted on the record for future licensing purposes. **Chair Ludwig** asked if this was an internal management decision. Ms. Noriega said she was not sure. Mr. Noriega was told the reason he was terminated was because he was being investigated by the Gaming Commission. They found that not to be true. Ms. Noriega said she was terminated for other reasons, of which she is not exactly sure.

**Mr. Bob Tull**, Attorney for Epstein Noriega, LLC and Michaels Development, advised that Ms. Noriega speaks to a civil matter that has been resolved, they believe, internally and she is presumably at liberty to comment. He said they, however, were not at liberty in the normal sense of things to engage in a debate on those issues in this type of forum and he urged the Commission to place confidence in the normal review processes of the staff. He advised he would attempt to keep civil disputes away from the Commission unless it is appropriate to bring it forward. He felt that Ms. Noriega's comments today were not necessary, but since they had been made, they would respond to any questions the Commission may have. **Chair Ludwig** replied that Mr. Tull had answered his question and that he was satisfied it was an internal management matter.

**Commissioner Forrest** made a motion seconded by **Commissioner McLaughlin** to approve Goldies Casino for implementation of Level II, Phase II status. *Vote taken: the motion carried with three ayes.*

#### **The Palace, La Center:**

**Mr. Thomas**, reported this organization is a commercial restaurant and card room in La Center. It is owned by Michael's Development LLC, of which Ruth Michaels owns 100 percent. Michael's Development also owns the Double Down, a card room in the test program. The Palace does not have a management agreement with any service suppliers; however, Michael's Development is a licensed service supplier and has management agreements with five other card rooms in the test program. The Palace began operating house banked games on June 30, 1999. They currently operate 10 house banked card games and five Poker games. Agents conducted a comprehensive review of key operating departments and of gaming and organizational records. In addition, the City of La Center was contacted and they confirmed the licensee was current with all local gambling taxes. The La Center Police Department was also contacted to determine if there had been any adverse impacts to local law enforcement from the house banked gaming. No adverse impacts were reported. The license corrected all violations noted. Based on the review, staff recommends approval of implementation to Level II, Phase II status for the Palace.

**Chair Ludwig** noticed there were three fairly minor, non serious violations which had been corrected.

**Mr. Thomas** responded that he thought this was about the fewest violations they have ever had. Chair Ludwig mentioned that some of the Commission members visited La Center about a year ago.

**Commissioner McLaughlin** made motion seconded by **Commissioner Forrest** to approve The Palace located in La Center, for Level II, Phase II status. *Vote taken: the motion carried with three ayes.*

## **12. STAFF REPORT:**

### **Card Room Enhancement Test Program**

**Cally Cass-Healy**, Assistant Director, Field Operations noted that Mr. Fries was handing out materials for the Commissioner's review. She reported that in the mid 1990's, card room licensees were experiencing declining gambling operations and sought legislative changes to improve their card room activity. In 1996 and 1997, their efforts resulted in changes to the law which authorized enhanced card rooms. The 1996 legislation allowed increases to the number of available tables, changes to fee collection procedures, and allowed player-supported jackpots games to be operated with authorized card

rooms. The 1997 legislation created the opportunity for player-funded or house banked card games. The Commission responded to these legislative changes by developing a pilot test program which allowed a wide variety of card game activities in a controlled environment for a defined period of time. The purpose of this program was to collect information on impacts from the activities prior to developing rules for final program implementation. Enhanced card rooms included in this test program followed guidelines set forth by Commission staff regarding the operation and management of the activity. These standards were initially set forth separately for general enhanced card rooms and for card rooms with banked games, then combined into revised appendices when the pilot program was extended in May of 1999. These guidelines were tested and revised based upon several valuable discoveries made during the monitoring of enhanced card game activity. Some of the key discoveries include the following:

Alternative fee assessment methods. Observations made of the assessment methods led the agency to conclude that the rake assessment could not be regulated like other methods. The rake was not adaptable to routine statistical analysis methods which are used to determine proper reporting of income. Surveillance systems were recommended as an additional regulatory measure to compensate for the inherent control weaknesses with this method.

Player-supported jackpots. Player-supported jackpots (PSJ's) were authorized initially and tested throughout the pilot program. One incident occurred soon after the authorization of PSJs, where an operator treated the player funds as his own and did not have the funds available upon inspection by Commission staff. Several other instances had been noticed since then, mainly regarding failure to maintain adequate funds due to record-keeping errors. These situations have been handled in accordance with the PSJ test rules which appear to provide adequate control for regulatory purposes.

Authorized card games. At the advent of the house banked games, and throughout the test period, several new card games were submitted to Commission staff for review and approval. As these games were reviewed in detail, it was concluded that several did not meet the definition of a social card game as stated in RCW 9.46.0282. Two previously approved house banked games were discontinued – Baccarat and Red Dog – and several other casino style card games were denied. Criteria and procedures were developed for card game approval and are codified in the proposed rule, WAC 230-40-010.

Waivers. The test program was approved with the provision that six months operation as a Class E-1 through E-5 card room was a prerequisite to be eligible to participate. It also provided the ability for the director to waive the six-month operating requirement based on demonstrated experience. During the test period, it became apparent that experience, operating, and managing a traditional card room in Washington State did not necessarily translate into effective operations of a card room offering house banked card games. We have removed the six-month waiver requirement from the proposed rule package.

The evolution of surveillance systems. Throughout the enhancement program, the surveillance system within the facilities have evolved to systems capable of achieving the desired results. Originally, many licensees were attempting to use equipment not capable of performing the required functions. Additionally, licensees were not trained to the full capabilities of these systems and how to properly maximize the system for their facilities. Both the licensees and staff have learned a tremendous amount since the inception of the test. This equipment is now being used at a level acceptable to Commission staff. We have also implemented requirements that strengthen the surveillance function overall. House banked licensees are now required to staff their surveillance room during all hours of card room operation. In addition, the security and surveillance departments were separated to avoid the potential for incompatible functions.

Internal Controls. Licensees were previously required to establish an internal audit function to assure Commission rules and their internal control procedures were followed. The purpose of this function was to provide a review of the gaming operations and procedures. A written annual report was required to be submitted to Commission staff based upon the findings of the audit. After the extension of the pilot

program, we received several of these reports. We found the individuals preparing their reports did not necessarily have a complete understanding of the internal controls or the objectives of the review. Based upon these findings, we changed the requirements and revised the appendix to an independent evaluation of the internal controls on an annual basis. If Commission staff is unavailable, these evaluations may be performed by a CPA or an independent service supplier. In addition, all persons performing these reviews must be pre-approved by the Commission based upon specific qualifications. We recently added one requirement in this area to the proposed rules package. All licensees operating house banked card games with gross receipts in excess of \$5 million annually will be required to have a financial statement audit performed by a CPA each calendar year. The purpose of this requirement is to determine the fairness of the financial statement presentation. For regulatory purposes, this will allow staff to evaluate the accuracy of the numbers reported as well as the integrity of management and the reporting process.

Novelty games during the pilot program. During the program, numerous novelty games were submitted by manufacturers with the desire to sell their games in Washington State. Several were initially approved and problems began to surface. These problems mainly centered around inadequate disclosure to players and in at least two incidences. Licensees reduced the advertised jackpot prior to the player winning. In addition, aggregates and predetermined prize limits were not disclosed or inadequately disclosed, creating confusion. We received several complaints relating to these particular issues and determined we would recommend tighter control over these types of games. Two proposed rules were added as addendum's and became part of the proposed rules package. These rules addressed controls over both progressive jackpot prizes and odds-based jackpot prizes. The main requirements include the inability to reduce a jackpot prize once it is offered except in very specific circumstances. Also, it requires clear and conspicuous disclosure of any limits applied to prizes as well as restrictions on the limits that may be applied.

Low volume operators. Throughout the pilot test, staff and licensees have worked together to develop procedures and rules that meet regulatory needs, but do not overburden the card room licensees. During the test, it became apparent through dialogues with many small operators, that some of the requirements were not economically feasible. Therefore, we proposed reduced requirements in three areas. Licensees who waive the \$100 wagering limits and gross less than \$50,000 a month will only be required to complete the internal control evaluation every two years. Licensees that are licensed for five or fewer tables, and operating under \$25 wagering limits will not be required to maintain a staff surveillance room. And licensees who operate five or fewer tables may operate with one level of supervision on the gaming floor provided that it's in the same area of the pit.

**Ms. Cass-Healy** said that in addition to the items just mentioned, several policy issues were brought forth throughout the test period and addressed in the proposed rule package. These include whether to allow house banked and player-supported prize contests, the number of card tables authorized not to exceed 15, the number of player authorized per table, methods to allow for the assessment and collection of fees, types of card games allowed, limitations on wagers, and hours of card room operation in addition to whether to allow card room promotions and limitations on those promotions. Staff has no regulatory concerns over any of those issues. However, staff is recommending the repeal or the elimination of Washington Blackjack. Washington Blackjack was initially approved prior to the house banking pilot program. Continuing problems have occurred since the advent of Washington Blackjack due to the difficulty in regulating the activity. The most significant case to date was discovered by our undercover agents and encompassed licensees who allowed an unlicensed person to bank their Blackjack games. Many dealers were promised a cut of the proceeds for participating in the deception. All of the licensees involved in this scheme have either had their licenses revoked or are currently in the administrative appeals process.

There are currently three licensees operating Washington Blackjack in the state compared to 20 in March of 1999. Two of these licensees are in northwest Washington and one is located in Tacoma, and reports they conduct the activity once every other month. Again, due to the difficulty in regulating Washington

Blackjack and in light of the advent of house banking, staff has recommended the repeal of this activity in their proposed rule package

**Chair Ludwig** observed that if Blackjack is eliminated, they've affected only three licensees, one of which is not very active. **Ms. Cass-Healy** affirmed. **Commissioner McLaughlin** said they could be grandfathered. Ms. Cass-Healy reported that all three licensees had been notified of this provision in the rules package. Chair Ludwig asked what staff's thought was o idea of grandfathering and letting the two or three continue and then adding no more. Ms. Cass-Healy said she didn't think they'd have any concerns over that; it would be at the pleasure of the Commission. **Director Bishop** said he had no comment.

**Ms. Cally-Healy** reported that Commission staff has worked closely with test participants to ensure that any material adverse impacts from enhanced card games were limited and the public was protected while allowing the operator flexibility in testing the new activities. They have incurred significant impacts to the operating divisions as a result of the pilot program. There were increases in terms of growth and sophistication of licensee applications. Their field regulatory program patterned from their experiences in tribal gaming regulation was developed during the test period and tailored to monitor the enhanced card room activity with its unique properties and challenges. The regulatory program developed includes a thorough and continuing review process. It begins with the licensing process which includes all steps to determine true owners of an organization, their qualification for licensure, and source of funds for the new operation. The next stage in the process is the initial review of the organization. Staff review internal controls of the organization to determine if they provide an adequate control environment for the operation and are in compliance with all of the requirements. Staff recently developed a model internal control document which was distributed to the licensees. Internal control submissions have improved significantly since the model was implemented.

Next, a pre-operation inspection is conducted. Procedures set for this inspection were developed to determine if the gaming operation established is meeting the requirements of the pilot study, and includes review of the nature, size and scope of card games, operation and management of gaming, forms and records, surveillance and security. After the facility is approved for operation, staff monitors the organization. This monitoring includes regular onsite compliance inspections and undercover surveillance is performed. Staff used compliance modules as guides for monitoring which assists the agency in determining whether an organization remains in compliance. We currently have a set of 15 separate modules that cover detailed procedures for inspecting various areas in the gaming operation. After six months of operation, an establishment may request a review to determine eligibility to go forward with increased wagering. This requires a completion of what staff call a Phase II review. This was established to determine compliance with all test requirements as well as RCW 9.46 and agency WAC rules. Staff also determined whether controls are functioning as stated in the licensee's documents. All ownership and licensing issues are reviewed once again to determine if problems exist with qualification for licensure. In addition, the local law enforcement is contacted to determine if there have been adverse impacts to the community. Finally, the organization is required to submit an annual report. 28 of the 50 house banked licensees are operating at increased wagering limits of \$100. Staff is projecting 54 house banked card rooms, 38 at \$100 limits, by the end of the test period and approximately 80 enhanced card rooms by the end of the 2001 biennium. Staff has budgeted for 43 Commission staff to regulate this activity. Of these, 33 are currently authorized and filled.

**Ms. Cass-Healy** said she provided a case summary of incidents reported during the test period in the handout materials. She asked the Commissioners to review these at their leisure. She also provided several statistical charts and graphs prepared by the financial reporting section which may also be reviewed at the commissioners' leisure. She pointed out a couple of significant statistics:

Graph No. 1 – shows the combined gross gambling receipts from licensed gambling activities in Washington State has steadily increased since 1996. \$752 million in activity was reported for the fiscal year 1996. \$755, in 1997 and then during 1998, combined gross gambling receipts from licensed activities increased to a record \$777 million and continued to increase to \$852 million for 1999.

Graph No. 2 – the industry has seen a slight decline in the percentage of market share for punch board pull tab operations and a significant decline in the market share for Bingo operations. Card rooms saw a change in market share from 2 percent to 12.9 percent of gross receipts for licensed gambling activities from 1996 to 1999. **Commissioner McLaughlin** asked if Indian casinos were in this graph, how would it be affected? **Ms. Cass-Healy** said she would get that information for her later.

Graph No. 7 – shows the number of card room licenses decreased from 1995 through 1997 and then in 1998, the number of licenses returned to the '95 level and exceeded it in 1999.

Graph No. 8 – shows the number of licensed card room employees has increased by a multiple of six from 1995 to 1999, mainly in the last two years.

Graph No. 10 – shows the substantial increase in card room local taxes reported to the Commission which coincides with the increase in card room gross receipts. It also depicts the anticipated decreases in the local taxes generated from Bingo activities. It is pretty constant as far as commercial and non profit punch board/pull tab operations.

**Chair Ludwig** pointed out that he could not see much difference in the right hand rise of card room tax and punch board/pull tabs. He asked if taxes were at the end of January, 1999, he couldn't make out a distinction if the card rooms taxes equal the taxes on pull tabs. **Ms. Cass-Healy** thought there was about a \$500,000 difference still at this point.

**Chair Ludwig** observed that punch board/pull tabs were still the biggest tax revenue for cities. **Ms. Cass-Healy** concurred. **Director Bishop** disagreed, he believed card rooms exceeded it by at least \$500,000. **Ms. Cass-Healy** said she would review this issue and respond.

**Director Bishop** extended his kudos to agency staff during this pilot program. He reported they really worked hard. He also offered kudos to the licensees. He thought everyone had really demonstrated that it is beneficial for government and those that they regulate, to work cooperatively. He affirmed the Commission had built good relationships, and he thought both sides had learned a lot during this time. Director Bishop looked forward to moving into the normal operation mode in May.

**Chairman Ludwig** believed all the Commissioners realize how dedicated and what good a job staff has done. He said it was apparent much progress has been made in reducing the number of violations between the first Phase II reviews and the second Phase II reviews, which speaks well for the staff and the licensees.

## **LEGISLATIVE REPORT**

**Amy Patjens** reported that she was standing in for Deputy Director Fleisher because he was speaking on one of the agency request bills before the House Judiciary Committee.

There are two agency request bills that were actually formally before the Commission last summer, requesting legislation in two areas. SB 6145/HB 2353, Access to Non-conviction Data deals with the access to non conviction criminal history information. This is more commonly thought of as arrest information when doing background investigations for the licensing hat the Commission wears. That bill passed the Senate last year. It died in the House Judiciary Committee. One legislator had concerns about whether the WSGC had adequate internal procedures to make sure that if they received the information, they weren't improperly passing it on to others. Ms. Patjens reported those concerns have been addressed, and she was pleased to inform the Commissioners that the Representative with the concerns last year, was one of the bill sponsors this year. The hearing in the House Committee is today, and the companion bill has a hearing scheduled in the Senate Committee on Thursday.



SB 6146/HB 2453 Cheating Statute - divides cheating into three different degrees. There is a hearing in the Senate this Thursday.

**Ms. Patjens** reported on the following non-agency request legislation:

SB 6373 Promotional Contests of Chance

**Ms. Patjens** noted this bill was discussed by the Commission last month. Several rules had been on the agenda for several months dealing with this issue. The Washington Gaming Consultants, of which Julie Porter is owner, asked the Commissioners to delay action on all of the rules in order to give Ms. Porter time to work on this legislation. A copy was provided in the handout packets. The version the Legislature will now be considering is the same as what is in the handout packets. This is a rewrite of the law. Right now, the law explains what a business can do to enter into a promotional contest of chance. This bill would say what you cannot be asked to do to enter into a promotional contest of chance. Staff feels this is a better proposal than current law, and it is staff's intention to testify in support of the bill.

**Commissioner Forrest** asked if the net result might be that if somebody abuses or appears to violate the rule by having something that could be viewed a consideration, who's duty is it to go after them – the Gambling Commission, the prosecuting attorney, or the consumer protection agency? **Ms. Patjens** said it would be the Gambling Commission's duty, through the prosecuting attorney. The benefit of the bill is that there will be fewer promotionals occurring now that probably are not within the letter of the law due to the methods of entry. Commissioner Forrest believed this would cut away from those Supreme Court decisions and would make a more realistic view of consideration. Ms. Patjens concurred and said it is within the WSGC Act – that's where they are proposing to make the changes --- and she anticipates that they would still get some questions just as they do right now.

SB 6422 - Zoning

**Ms. Patjens** said this bill deals with zoning and noted that staff expects a companion bill in the House. This bill would give cities the authority to zone card rooms into certain geographic areas. There's been a lot of discussion over the last year or so with the cities and whether they have the ability to zone or not. This bill would more clearly give that ability to them for card rooms. **Commissioner Forrest** asked if the Commission would be asked if they are for or against the bill. Ms. Patjens responded that staff typically is asked to explain the regulatory impacts of a bill. Inevitably, the question usually arises regarding the Gambling Commission's position on a particular bill. She said staff's impression is that there seems to be support for allowing local entities to zone card rooms in specific geographic areas. Commissioner Forrest believed that allowing cities to zone certainly won't hurt, and may deflect some of the letters and complaints the Commission receives. He stated that as an individual and as a Commissioner, he believed the Commission should not oppose this bill. Ms. Patjens thanked Commissioner Forrest for his views. **Commissioner McLaughlin** agreed. She also believed the local authorities should have the right to determine what their city or county is going to look like. If they have the right to say where churches and schools are, they should have the right to establish where other businesses are. The Commission's responsibility is to regulate gambling businesses, and doesn't have any business telling a city or a county where they should be located. **Chair Ludwig** concurred.

**Ms. Patjens** said she would skip the credit union raffle bill because it hasn't been introduced yet. It appears in the packet for informational purposes. **Commissioner Forrest** stated that he didn't know why credit unions needed raffles because it's supposed to be a bank. He asked if the Commission will be required to police them. Ms. Patjens affirmed. Commissioner Forrest asked where the money would come from with 695 in effect. Ms. Patjens thought the agency would be okay because a license structure for raffles already exists. **Commissioner McLaughlin** asked if staff thinks they ought to do this. Ms. Patjens said staff's position, if asked to testify, would be neutral. Commissioner McLaughlin asked which charity the credit union be related to. **Director Bishop** said it wouldn't, it is a non profit organization under the Non Profit Corporate Act. However, it is not currently defined as a non profit organization that can conduct gambling activities. Director Bishop explained that the Non Profit Statute is much broader than those that are allowed to do gambling activities. Commissioner Forrest said the big complaint from the banks has always been that credit unions don't pay taxes because they aren't a profit-making organization, but they look and act like one. Director Bishop noted similar concerns had been expressed

in the Legislature. He recalled that trade associations have asked for this same type of activity and believed that it had been received quite negatively.

**Ms. Patjens** addressed the fund raising event/recreational gaming activity bill. She explained that a fund raising event (Reno Nights, for example) is where one can actually purchase chips and is able to gamble with those chips. There are also recreational gaming activities that are sometimes put on by PTAs – they're more common with high school graduations. They are also something that a charity may be conducting where one can buy a ticket and, for example, for \$50 can receive a dinner and \$100 worth of scrip or chips. The individual can then play the different card games or perhaps roulette or craps. At the end of night, they would take whatever "fake" money they won and would be able to purchase a prize. This bill would allow the non profits to be able to hire professional organizations to run their fund raising events, with the idea of getting more money back to the charities. A hearing is scheduled on this bill tomorrow. **Chair Ludwig** asked why it couldn't be regulated under present authority. Ms. Patjens explained the difference is that under present authority, the organization can't hire a professional company. In the past three or four legislative sessions, there's been a bill just on fund raising events, not anything to do with these recreational gaming activities, that would have increased the number of times they could conduct fund raising events, and to allow them to hire professionals. These bills have not been successful. **Director Bishop** indicated this would not have 695 implications because the agency currently regulates fund raising events, as well as regulating the people who rent the equipment. Ms. Patjens said that staff's intent at this point would be to testify on the regulatory impacts of this change, which staff believed would be minimal.

**Ms. Patjens** noted a bill regarding Pyramid Schemes was in the commissioner's packet for informational purposes. There is another bill that deals with taxes. Right now, tax revenue collected by cities and counties must be used primarily for enforcement of the Gambling Act. The Supreme Court ruled that "Primarily" means the revenue had to go into the police fund, but it wasn't necessarily a line item clearly traced to the gambling funds. The proposed legislation would change the word "primarily" to "any tax revenue would have to be used exclusively for enforcement of the Gambling Act." Ms. Patjens believed it would also decrease the tax rate on pull tabs for commercial operators from 10 percent to 2 percent.

**13. RULES UP FOR DISCUSSION:**  
**Gambling Service Supplier Rules:**  
***WAC 230-02-205, WAC 230-02-206, and WAC 230-04-119***

**Amy Patjens** reported the rules were up for discussion only, and deal with gambling service suppliers. This is the third time they've been on the agenda and in order to comply with the code revisor's publication dates, this rule package must appear on the agenda for four months.

The proposed rule would clarify that businesses that provide components as part of a manufacturing process would have to be licensed as gambling service suppliers. Businesses that are training individuals for activities that require a license would also have to be licensed as gambling service suppliers. This relates to private schools that are training people how to be card room employees.

**Commissioner Forrest** asked if this is a new category of licensees and would the agency have funding issues under 695. **Director Bishop** affirmed that categories for service suppliers already exist; the rules are simply adding activities to that license. He doubted this would come under 695 restrictions and asked Assistant Attorney General, Jon McCoy for an opinion. **Mr. McCoy** responded that he had not reviewed this issue specifically. Director Bishop explained that 695 relates to adding new fees or taxes. With this rule, the agency is identifying a "new person" who would be subject to the existing fee or tax.

**Chair Ludwig** called for additional questions from the Commissioners and then the audience. There were none. It was noted this rule would be on next month's agenda for final action.

**14. Bingo Rules - Streamlining:**

**WAC 230-02-108, WAC 230-02-123, WAC 230-02-183, WAC 230-04-330, WAC 230-08-080, WAC 230-08-100, WAC 230-08-105, WAC 230-12-050, WAC 230-12-078, WAC 230-20-110, WAC 230-20-120, WAC 230-20-220, WAC 230-20-243, and WAC 230-20-244.**

**Ms. Cass-Healy** reported these rules were also up for discussion only. They are a result of numerous discussions within the Net Return Task Force, which is comprised of Commission staff and members of the Bingo industry. The intent was to streamline some of the current requirements and clarify others. In addition, some changes were recommended that will allow Bingo operators more freedom to provide incentives to players. She called attention to four rules which were modified since the agenda was printed: WAC 230-02-108; WAC 230-04-330; WAC 230-20-110 and WAC 230-20-220. Staff is requesting that WAC 230-04-330 - Change of Management, be pulled from the agenda for further discussion at task force meetings at the request of the task force members.

**Chair Ludwig** questioned if the licensees and operators are fully supportive of the rules package. Ms. Cass-Healy affirmed. Chair Ludwig opened the issue for public discussion and affirmed the rules will be on the agenda next month for final action. There were no questions, the public hearing was closed.

**15. RULES UP FOR DISCUSSION & POSSIBLE FILING:**

**Licensee Reporting Requirements Rule:  
WAC 230-12-230**

**Amy Patjens** explained this rule provides a change in reporting requirements. Under the current rule, all licensees must inform the Commission of civil and criminal actions that have been filed against them. They must also let the Commission know about the disposition of those cases. There's been a question as to whether licensees must report administrative actions that are filed by other regulatory agencies. The proposed rule will actually clarify and streamline what has to be reported. Under the proposed rule, licensees would have to report actions that would involve the ownership of the business, actions like patent infringements, and report administrative actions that are filed by other gambling regulatory agencies. Ms. Patjens noted the rule is up for filing, and staff recommends filing.

**Chair Ludwig** asked if there was anyone present who wished to speak for or against filing the rule. There were no comments and the public hearing was closed.

**Commissioner Forrest** made motion seconded by **Commissioner McLaughlin** to file the rule as presented. *Vote take; motion carried with three aye votes..*

**Chair Ludwig** called for a recess at 3:00 p.m., and reconvened the public meeting at 3:20 p.m.

**16. Card Room Rules:**

**WAC 230-04-010, WAC 230-40-015, WAC 230-40-030, WAC 230-40-040, WAC 230-40-050, WAC 230-40-060, WAC 230-40-070, WAC 230-40-120, WAC 230-40-125, WAC 230-40-130, WAC 230-40-150, WAC 230-40-160, WAC 230-40-200, WAC 230-40-225, WAC 230-40-400, WAC 230-50-010, and WAC 230-40-900**

**Player-Supported Jackpot (PSJs):  
WAC 230-40-600, WAC 230-40-610, and WAC 230-40-615.**

**House-Banked Card Games, Additional Requirements for PSJs, Specific Fee Assessment and Collection Methods:**

**WAC 230-04-800, WAC 230-40-803, WAC 230-40-805, WAC 230-04-810, WAC 230-40-815, WAC 230-40-820, WAC 230-40-823, WAC 230-40-825, WAC 230-40-830, WAC 230-40-833, WAC 230-40-835, WAC 230-40-840, WAC 230-40-845, WAC 230-40-850, WAC 230-40-855, WAC 230-40-860, WAC 230-40-865, WAC 230-40-870, WAC 230-40-875, WAC 230-40-880, WAC 230-40-885, WAC 230-40-890, WAC 230-40-895, and WAC 230-40-897.**

**Card Room Definitions:**

**WAC 230-40-550, WAC 230-40-552, WAC 230-40-554, WAC 230-40-556, WAC 230-40-558, WAC 230-40-560, and WAC 230-40-562**

**Other Rules Relating to Card Games:**

**WAC 230-02-109, WAC 230-02-110, WAC 230-02-400, WAC 230-02-414, WAC 230-02-425, WAC 230-04-022, WAC 230-04-140, WAC 230-04-142, WAC 230-04-204, WAC 230-04-207, WAC 230-04-450, WAC 230-08-040, WAC 230-08-090, WAC 230-08-027, WAC 230-08-160, WAC 230-12-050, WAC 230-12-072, and WAC 230-12-073.**

**Chair Ludwig** advised that the rules were up for discussion and possible filing. He noted the rules were generally similar to the proposed rules the Commissioners looked at last spring. **Ms. Cass-Healy** explained the rules were split into four sections:

Section A covers Item 5A through Q and covers fees, rules of play, table and wagering limits and hours of operation. Policy issues include fees, table and wagering limits, and hours of operation.

Item 5B, relates to player-supported jackpots (PSJ). This section covers PSJ approvals and rules of conduct, and the control structure for non house-banked games. The policy issue in this section includes PSJ wagering limits.

Section C covers house-banked card games, additional requirements for PSJ specific fee assessments and collection methods. It covers house-banked card rooms, control structures, operating rules and procedures, prize limits, banking requirements, promotions and evaluation and audit requirements. Policy issues covered in this section include Phase II wagering limits, limits on prizes and on promotions.

Section D provides card room definitions. No policy issues relate to this section.

Section E covers card room term definitions, licensing, certification procedures, record and reporting requirements, and deposit requirements for PSJs and house-banked games. Policy issues in this section include the fees for individuals.

**Ms. Cass-Healy** noted that a section was added under WAC 230-04-255. It is a rule that states that the director may issue temporary licenses, including procedures and restrictions. This covers any temporary license the director may approve, but it specifically states the director shall not issue temporary licenses to manufacturers and applicants to operate house-banked card rooms. **Director Bishop** noted that after previous discussions on this issue, staff proposed that the house banked card games be treated the same as all other operator licenses. Commissioners expressed some concern regarding the staff being too strict, so staff modified the rules. The rule will not allow the director to grant a temporary license for house-banked card games. It also codifies the long-time procedures for licensing manufacturers. **Director Bishop** affirmed that he hasn't been able to issue a manufacturer or temporary license, and they will continue to come before the Commission. He noted a similar issue relating to Phase II approvals. Commissioners had expressed some concern regarding whether they wanted to allow the director to grant approvals, or to continue with the existing process. They have drafted a modified rule that would continue the current approval process for Phase II approvals. **Director Bishop** expressed his desire to have both rules filed. **Commissioner Forrest** didn't think it would take a motion because it appeared all the Commissioners agreed they should file the alternatives and continue to consider them over the next few meetings. **Chair Ludwig** and **Commissioner McLaughlin** concurred. **Director Bishop** clarified that would require filing two versions of 803. **Chair Ludwig** affirmed.

**Chair Ludwig** called for questions from the Commissioners. He affirmed the rules will appear on the agenda for another two meetings if they are filed today -- today's decision is only for filing. He then opened the meeting for public comment in favor of or in opposition to filing these proposed permanent rules.

**Bob Brennan**, President of the Recreational Gambling Association, proposed filing the rules. He thanked staff for the outstanding job they have done and for the cooperation and communication between the licensees and the staff. Mr. Brennan noted that communication has been the most important thing.

**Ms. Beverly Milligan**, Slo Pitch Pub and Casino, located in Bellingham, questioned the new section of Amendment No. 2 – specifically that owners and on duty card room employees may participate in card games that offer the PSJ, but may not share in the winnings of any prize awarded. **Chair Ludwig** affirmed there was a difference between an employee who is being paid and working, and an employee who is not on duty. Ms. Milligan responded that the Amendment says “on duty” which she read to mean paid personnel will not be eligible, and off duty employees are eligible. Chair Ludwig asked if she thought they should be allowed to participate. Ms. Milligan affirmed. She believed that if the individuals were going to be making their living playing the game in order to keep the games going, and they’re contributing to the PSJ fund, their eligibility should be allowed. Ms. Milligan agreed that owners and managers should not participate at any time in the division of the prize funds. Chair Ludwig expressed concern regarding the appearance – noting that if he was a player, and the person next to him was the operator’s employee and he wins, it may appear a little suspicious. Chair Ludwig questioned if that appearance would be good for business. Ms. Milligan responded that players are generally used to playing with employees in Poker and that it is a very common thing for employees to be in the game at all times. The splitting of the jackpot in the PSJs for Poker is split among all the players, so the fact that they’re in on that hand is what made that payout possible. She believed the majority of people are happy there is a jackpot and that they will get a piece of it, whether it is the larger or the smaller share.

**Commissioner McLaughlin** asked if in her particular establishment, if everyone knew each other. **Ms. Milligan** affirmed. Commissioner McLaughlin noted it is not always like that in larger areas. Ms. Milligan indicated the Poker population is a closer knit group, and noted that according to the rules, it is posted that employees will be introduced as employees if anyone at the table asks questions. Commissioner McLaughlin thought they were supposed to wear badges for Poker. Ms. Milligan said they do when on duty, but even off duty employees are introduced. Commissioner McLaughlin asked if off duty employees wear their badges. Ms. Milligan responded, not for Poker. A sign is posted indicating there may be employees playing at the table, but they do not have to wear the badge off duty. **Director Bishop** believed that rule has changed. Commissioner McLaughlin noted some establishments don’t allow their off duty employees to play in their establishment. **Director Bishop** clarified that practice pertained to house banked games, and affirmed that most of the Poker players do want anyone to play. Chair Ludwig thanked Ms. Milligan for her comments and noted this has given the Commission something to think about.

**Mr. Ralph Hallenden**, Cliff’s Tavern in Shoreline, noted that Cliff’s is a small five-table card room and by choice is not involved in the card room enhancement program. He opposed the ending of Washington Blackjack in Washington State. He said that although he realizes the game is only played in a few card rooms, he believed the game is a valuable contribution to gaming in the state. The only reason being expressed by the Commission for discontinuing Washington Blackjack is that it is hard to regulate. He noted the problems alluded to by Ms. Cass-Healy earlier today involved games which were neither player-dealt nor truly player banked, which is the way the game was introduced, and which is the way they played at Cliff’s. He believed that in the problem games, the vast majority of players involved were playing against the house and never had a clue that they could bank the game if they wanted to. He stated that he operates one of the smallest card rooms in the state. Ninety percent of his total time collected is from very low limit Poker games. These are the games that were a mainstay of the industry for most of the past 25 years. The Blackjack game he operates is a shadow of what it once was, but he still has a game five days a week. It’s a great afternoon game with friends that play with each other regularly. These are low-limit players rarely betting more than \$5 per hand. It’s also a great place to keep his players while they’re waiting for a seat in the Poker games. As someone who is the regular floor supervisor on this shift, he can assure everyone that there is never any trouble with this game.

Mr. Hallenden expressed a fear that next year the Commission will tell him that his time collection player-dealt small limit Poker games are difficult to regulate, and since they are only played in a handful of card rooms, they will no longer be allowed. He suggested the low-limit Poker player is the only really affordable way to play. He advised that his entire business is based on the premise that no matter how many casinos there are, there will always be a market for low-limit Poker players and for a low-limit social card game. Mr. Hallenden felt he should be entitled to test this premise and let the market judge his business sense. He believed grandfathering the existing games would be an excellent solution.

**Bob Ransom**, Councilman, City of Shoreline, reported that Shoreline had seven card rooms in the city, one of which is Cliff's. He advised that he was quite familiar with this particular establishment. Councilman Ransom supported grandfathering the institutions that currently conduct Washington based Blackjack. He affirmed that Cliff's is a good establishment. He reported that he had talked to the Chief of Police and there are no complaints against Cliff's. He specifically provided his support to grandfather Cliff's for continued Washington Blackjack. **Chairman Ludwig** called for further comments. There were none, and he closed the public hearing.

**Commissioner Forrest** made a motion to file the proposed card room rules for further discussion in February, with eventual final action in March and an implementation date of May 1. The motion was seconded by **Commissioner McLaughlin**. *Vote taken; motion carried with three aye votes.*

**17. OTHER BUSINESS/GENERAL DISCUSSION/COMMENTS FROM THE PUBLIC:**

**Julie Porter**, Washington Gaming Consultants, thanked the Commissioners for their input and help with the legislation on promotional contests of chance. She also thanked staff for their cooperation in writing the final draft. She reported that she received a positive response from the Legislature and had intended to ask for an endorsement today, when she learned of some concerns about lookalikes.

**Ms. Porter** explained that after discussions with Deputy Director Fleisher, she volunteered to insert language that would address the issues they discussed. However, it would require a five-page piece of legislation to address the lookalikes, because there's no distinction between mechanical devices and paper, so each device would have to be addressed individually. She contacted Promotional Marketing Association, a non profit organization that has been in existence since 1911. Their business is to make sure promotional marketing is a good and clean business. The attorney Ms. Porter spoke to reviews all promotional trade journals, legal case law, and writes a newsletter on promotional law. He indicated that there is no other wording in any other state that addresses lookalike machine promotionals. Things are typically handled on a case-by-case basis. Ms. Porter noted these laws have been on the books in 49 other states for decades without problems. She didn't think there would be problems in Washington either. Ms. Porter also contacted the Washington Retail Trade Association and they said that they would not use the promotionals with machines simply out of not wanting to offend their customers. Ms. Porter again noted there hasn't been a problem in the other 49 states that don't have language prohibiting machines. **Chair Ludwig** asked if she meant a machine that is not a gambling device but may look like one. Ms. Porter affirmed. She provided a picture of a machine that had been used in other states, typically at conventions, so a company could give away a T-shirt as customers pull on the machine – they've never been put in a public area – it's always been for a private conventions or events. Chair Ludwig asked if there were any plans to put it out on the market. Ms. Porter advised not that she was aware.

**Director Bishop** said his concern is not what people plan to do at this point, but rather what they will actually do after the law is passed. He said he was sure Ms. Porter's intentions were good, he just wasn't sure the agency could rely on people's statement that "they won't do that." **Ms. Porter** responded that she could only point to the track record in other states, and at how cost prohibitive the mechanical device is. Director Bishop said she had a good point regarding no consideration of any kind. He emphasized that his desire is to get away from spending any staff time to regulate this activity. He hoped that if legislation does pass, it would address his concerns. **Chair Ludwig** asked what she was asking for, and Ms. Porter said an endorsement. She would like to be able to allay the Commission's concerns and

volunteered to change language to make it easier to endorse. She believed the draft was good legislation that would solve problems for the Commission and clarify things for the business people. Chair Ludwig asked if the Commission didn't already endorse her initial draft legislation to take the activity out of Title 9.46. Ms. Porter affirmed they had wanted to, but there was no place else to put the legislation. One of the things written in the statute is that this is not a gambling activity. Chair Ludwig asked if it was left in for the Commission to regulate. Ms. Porter said it was not there for the Commission to regulate – the Commission would only regulate it if it became a gambling activity – if there is consideration, it is a violation and enforcement steps in.

**Director Bishop** stated that he supported the concept to eliminate the existing problem the agency has with promotional contests of chance. He reiterated that he had concerns regarding this language. He expressed his concern that another problem isn't built through the effort of trying to solve this problem. He concurred this legislation is definitely better than what currently exists. **Commissioner Forrest** asked if the bill contains some "bugs" or whether it was Ms. Porter's elaboration that was causing the concern. Director Bishop responded that his concern is purely with Subsection 6. Staff wanted assurance they won't have to regulate these "gambling" devices, which is a very large category of the legislation. They have suggested not using them in these types of contests, which would get them out of regulating the activity. However, the Gambling Commission statute defines a gambling device as anything that was manufactured for use in gambling. One can manufacture something that looks just like a slot machine and say "I made this machine for promotional contests of chance; I didn't make it for gambling," and by definition, he said, it's not a gambling device. Director Bishop cautioned that something just doesn't feel right; on the other hand, if this legislation was passed by the Legislature, he did concur that the agency would be much better off than it is right now.

**Commissioner Forrest** suggested a change in wording in Subsection 6 of the draft -- to strike out "unless authorized by the Commission" and use "equipment or devices approved by the Commission for gambling" or "prohibited for use in promotional contests" instead. Anything the Commission would approve for gambling purposes couldn't be used in promotional contests of chance. **Chair Ludwig** questioned what would happen if they didn't approve it; for instance, a real slot machine. **Ms. Porter** said they couldn't use it with this language and noted that Subsection 6 states "anything that's been made for use as a gambling device is prohibitive." Chair Ludwig read "unless authorized by the Commission, equipment or devices made for use in gambling are prohibited." He said they are never going to authorize slot machines unless the law changes, so slot machines would not fit into the language in Subsection 6. **Director Bishop** noted that at the last meeting the Commission approved paper bingo cards for use in a promotional contest of chance. Currently, game cards that are similar to pull tabs are used for promotions. They were approved because they are a controlled item used in a gambling activity. However, they can also be used (by Commission WAC rules) for promotional contests of chance. Director Bishop expressed his concern regarding computer games that could be operated as a gambling devices, but, which do not meet the technical requirements. They create the concern that while they were built to conduct promotional contest of chance, they could be operated as gambling devices.

**Commissioner McLaughlin** asked if it is taken out of the Commission's statute, how could they authorize the equipment or device. **Director Bishop** and **Ms. Porter** responded that it is still within the Commission statute right now because there isn't another location to place this activity. Commissioner McLaughlin and **Chair Ludwig** suggested the Consumer Protection Division of the Attorney General's Office. Ms. Porter advised that she had received a negative response to that recommendation. Director Bishop asked for Assistant Attorney General Jon McCoy's opinion. **Mr. McCoy** said the reason it appears in the Gambling Act is because it is like amusement games and some other activities that can be conducted as a gambling activity, therefore, it is put in the Gambling Act to ensure they are not conducted as gambling activities. **Ms. Porter** believed the primary key was consideration, which was never defined in the previous statute. If there's a prize, chance, and consideration, it is gambling; if there's no consideration, it is not gambling. Promotional contests of chance are not gambling.

**Commissioner Forrest** said he thought it would be easy to get rid of the consideration, what is not so easy is to say what kind of devices you can use with no consideration. That is what's causing the problem. He believed it would be unfortunate to pass judgment on a bunch of machines that don't have consideration. He concurred with Director Bishop that it is better than what is on the books now.

**Director Bishop** agreed; he said we were no worse off in the fact that if someone pays to play a non gambling machine, they have circumvented the consideration issue.

**Chair Ludwig** called attention to Paragraph 4B. If a person purchased something and got a ticket, and someone else didn't have to make the purchase to get the same ticket, does this say that even through the alternate method of asking for and getting the initial entry, would this allow the operator business to give people more tickets if they bought something. **Ms. Porter** affirmed that is a common way of promotion. Chair Ludwig asked if that wasn't consideration for the tickets. Ms. Porter affirmed – they can give you something separate. Chair Ludwig said they're charging consideration. Ms. Porter responded that it may be a preferred product, but they're not charging extra for the preferred product. The value of the product must be evaluated. The whole idea of promotions in society is that the business is giving added value to the people who are buying their products.

**Ron Porter** addressed the preferred purchase issue. There is an alternate method of entry which could be used if there's consideration – if one looks at promotions – there must be what's called the "free chance" or an alternate method of entry. It has to be in proportion to the amount of chances you can get by buying preferred products. If a customer bought a six-pack of cola with a bottle-cap promotion, one has six chances. That means somebody can send in a self-addressed, stamped envelope and get six promotions. The alternative method of entry that's commonly accepted around the United States and the other 49 states, is that method by which one gets their free chances. One is not limited by that either. The federal laws that deal directly on the promotional rules are quite long. That is why the other 49 states only deal with the lottery law. It's not an unregulated area; it's highly regulated by the federal government.

**Chairman Ludwig** asked for Director Bishop's recommendation on Ms. Porter's request that the Commission endorse the legislation. **Director Bishop** summarized that this agency should endorse this legislation, if it gets them out of the 99 percent of the work in the promotional contests of chance arena. He concurred it is much better than the current law and meets the current environment.

**Commissioner Forrest** suggested that without denying Ms. Porter's chances and at the same time protecting the Commission, perhaps the endorsement should be phrased that the Commission endorses this bill as drafted. If there are amendments, the Commission can change their position if necessary. Commissioner Forrest advised that he was inclined to endorse this bill in its present form.

**Commissioner Forrest** made a motion that the Commission authorized the Executive Director to support Senate Bill 6373 in its present form in any hearings before the Washington State Legislature or elsewhere. **Commissioner McLaughlin** asked if there were a companion bill to this. **Ms. Porter** responded in the negative. **Commissioner McLaughlin** seconded the motion. *Vote taken; motion carried with three aye votes.* **Chair Ludwig** thanked Ms. Porter for bearing with the Commission and explaining the matter.

**Rick Newgard**, Washington Charitable and Civic Gaming Association, (WCCGA) called attention to the draft Bingo bill in the legislative packet. The bill was dropped today by sponsors Al Bauer, Senator Deccio, and Senator Margarita Prentice. It is a bill that was introduced last year, with modifications. The bill would allow non profits and charitables to have linked bingo machines like the tribal bingo halls, and allows non-profits to co-locate, so they could take existing facilities that are only open three days a week, move them together and operate six days a week, thus cutting their overhead and better utilizing their facility. The bill asks for a five-year moratorium on any new bingo licensees so current charitable licensees could get out of their leases and join together, and take time to join together and create a market for the new entity which would be operating six days a week. Mr. Newgard spoke on behalf of the



non profits and charitables, asking the Commission to support their legislation this session. A hearing is scheduled the first week of February.

**Chair Ludwig** asked about the moratorium. **Mr. Newgard** said the moratorium addresses a market, where current facilities with two years left on their lease could operate for two years, find someone to co-locate with, and once the facility is empty, a landlord could have a turn-key Bingo hall. His best option would be to solicit for a non profit organization, whatever it might be, to take over the facility because it's a turn-key and ready operation. In essence, the moratorium will provide time to get out of existing leases, to join forces, and to establish a market so that if after five years new non-profits want to open, they might better know where they can locate without experiencing a saturated market. **Chair Ludwig** asked if there would be a moratorium against any new licenses. Mr. Newgaard said only for Bingo licenses, for five years. Chair Ludwig verified it was not a ban on the landlord being able to rent his property to another. Mr. Newgaard was unsure. **Commissioner McLaughlin** addressed an example of an established premiere Bingo game, and she inquired what would stop someone from out of the area joining the hall that already has a license. Mr. Newgaard advised that has been addressed. The thought was that they could move into a market area, but couldn't take a license from outside of, say, 25 miles. Mr. Newgaard shared his perception that every time a restaurant goes out of business, someone else comes in and knows how to do it better. The building becomes a new restaurant time and again. The intent of the legislation is to protect the market while existing non profits get together and use their locations more efficiently.

**Commissioner Forrest** asked for staff's opinion. **Director Bishop** agreed with the principal of placing a moratorium on licenses. He noted that any time a Bingo game closes in one area, it is usually due to market constraints. He believed that if it is within the Puget Sound area, it would be less than six months before a new organization is talked into starting a new Bingo game. He expressed concerns about the machine portion, not from the fact that the Commission can't regulate them, but from the fact that this would be a new regulatory activity that the Commission would have to undertake. Director Bishop believed this has 695 restrictions, whereby the Commission could not implement a new fee to cover regulating these machines.

**Chairman Ludwig** questioned if the Commission gave the charities and non profits something the Native Americans are able to do in their Bingo parlors, would the card rooms and recreational gambling associations also come forward and ask for machines because they're legal in the state, because the tribes have them, and because they would like to be able to compete on the same level. **Mr. Newgard** agreed that they could argue the leap-frog theory, but this is a Bingo game, it's 75 number driven, and it is Bingo in the newest technology. He said they are not asking for the X-machine (Tribal Lottery System Machines). **Commissioner Forrest** emphasized that it is the Legislature's duty to deal with leap-frogging. Chair Ludwig agreed. **Director Bishop** said this bill, although it is changed somewhat, was supported last year by saying that the Commission could regulate the activity. That is not the issue. The additional concern this year is 695 funding. While the agency can regulate the activity, it would require new fees to be imposed. Commissioner Forrest expressed concern about the Commission supporting an activity without the means to regulate it. **Commissioner McLaughlin** believed the Commission has the means to regulate it if it's just another form of Bingo. Director Bishop clarified this is a new way playing an activity. However, it is Bingo, and would fall under the regular license class structure. Commissioner McLaughlin noted the electronic dauber is already available in some places. Director Bishop said this was much different. Mr. Newgard asked if this wouldn't simply be a refinement of satellite Bingo. Director Bishop was unsure, staff has not had the opportunity to examine this in depth yet. The question of funding remains in either case. Commissioner Forrest indicated that if the Legislature asks the Commission, we could say we have no objection in principal, but do have concerns about the funds to regulate the activity. The Legislature would have to worry about the implications. Director Bishop affirmed that it can be regulated, there is a means to do that, but the concern is getting the funding. Commissioner Forrest felt that was reasonable. **Mr. Newgard** asked for a letter of support.

**Commissioner McLaughlin** made a motion to regulate the Bingo machines, with the stipulated concern that under Initiative 695 the Commission would not have the funds to support regulation of the activities.

Additionally, **Director Bishop** believed the Commission needed to add the fact that the Commission supports the non profit organizations in their quest for funds. **Commissioner Forrest** suggested Director Bishop draft a statement of support for the non profits. He noted this activity does not present regulatory concerns, but, the way the Commission understands it, they would not have the funds to regulate such activity and would leave that decision up to the Legislature. Perhaps the Legislature may offer help, or perhaps the Court will declare that 695 doesn't apply. Commissioner Forrest felt that should give the WCCGA the Commission's blessing, and noted that since there aren't any revenues, they are not getting a contribution, only a blessing.

**Commissioner McLaughlin** asked for a second to the motion. **Commissioner Forrest** restated the motion. The Director will draft a statement of Gambling Commission policy, the essence of which is that the Commission supports more revenue for non profits, and that the Commission has no regulatory problem with this particular activity, but is concerned that they presently don't have funds to regulate it.

**Chairman Ludwig** called for further questions or discussion. **Commissioner McLaughlin** wasn't sure she totally agreed. She supported the Commission pursuing the right to seek funding, but noted that under the 695 constraints, we may be unsuccessful. **Chair Ludwig** felt it said that same thing and raised the question of not being sure that we have the funds, or being able to adequately fund any additional costs because of Initiative 695. **Commissioner McLaughlin** said she would prefer to have that mentioned and seconded the motion. **Chairman Ludwig** concurred. Vote taken; motion carried with three aye votes.

**Mr. Patjens** asked to clarify staff's understanding of the motion. She understood it to be two-part – that the Commission is giving staff the go-ahead to say both before the Legislature as well as in a letter, that the Commission supports the legislation and doesn't foresee it having regulatory concerns, but that there is a funding issue and that we would really be doing both things. **Chair Ludwig** said if staff wanted clarification, they were attempting to paraphrase Director Bishop's comments. There were no further public comments.

**17. EXECUTIVE SESSION TO DISCUSS PENDING INVESTIGATIONS AND LITIGATION:**

**Chair Ludwig** recessed the open public meeting at 4:30 p.m. He called for an executive session and announced the Commission will reconvene only to adjourn.

**18. ADJOURNMENT:**

With no further business, a motion for adjournment prevailed at 4:45 p.m.

*Minutes submitted to the Commission for approval.*

Shirley A. Corbett  
Executive Assistant